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UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

TODD R. G. HILL, et al,

Plaintiffs

vs.

THE BOARD OF DIRECTORS, OFFICERS AND AGENTS AND INDIVIDUALS OF THE PEOPLES COLLEGE OF LAW, et al.,

Defendants.

CIVIL ACTION NO. 2:23-cv-01298-JLS-BFM

The Hon. Josephine L. Staton
Courtroom 8A, 8th Floor

Magistrate Judge Brianna Fuller Mircheff
Courtroom 780, 7th Floor

PLAINTIFF'S NOTICE OF MOTION AND MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO FED. R. CIV. P. 59(e)

NO ORAL ARGUMENT REQUESTED

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PLAINTIFF'S NOTICE OF MOTION AND MOTION TO ALTER OR AMEND JUDGMENT PURSUANT TO FED. R. CIV. P. 59(e)

TO THE HONORABLE COURT AND ALL PARTIES OF RECORD:

Plaintiff respectfully moves to alter or amend the judgment recorded in Docket 277 supporting dismissal and denial of reconsideration related to his Third Amended Complaint under Federal Rule of Civil Procedure 59(e), on the grounds that the judgment rests on an incomplete and selectively docketed record, despite timely EDSS-confirmed filings that clarified evidentiary objections and presented material factual contradictions.

This motion addresses both the prior judgment of dismissal and the prior denial of Plaintiff's motion for reconsideration (Docket 277), entered on April 25, 2025, the latter of which was issued without acknowledgment of timely, EDSS-confirmed filings that materially clarified Plaintiff's evidentiary objections and undermined the procedural basis for dismissal.

While the court's ruling appears procedurally neutral on its face, it omits reference to dispositive submissions, including a judicial notice clarification suppressed after the Court docketed a corresponding Errata, and issues judgment without addressing factual disputes that preclude dismissal under Federal Rule of Civil Procedure 12(b)(6) and trigger Federal Rule of Civil Procedure 12(d). This appeal seeks to ensure that material filings are not excluded from judicial review and that dismissal is not upheld on a facial record that conceals its own omissions.

The record reflects that the Court had constructive and actual notice of Plaintiff's April 22, 2025 Judicial Notice Clarification before issuing its dispositive ruling. Plaintiff's Errata (Docket 279), submitted on April 25, 2025, explicitly referenced the April 22 filing and was docketed shortly

thereafter. Despite this, the underlying submission remains absent from the docket, and no Notice of Deficiency or rejection was ever issued. Plaintiff further filed a Notice of Procedural Irregularity (Docket 281) the next day, alerting the Court that it had ruled on an incomplete record. In light of this sequence—combined with the selective docketing of all other related filings—it is evident that the omission of the April 22 submission was not inadvertent. The Court's own actions confirm awareness of the filing and support the conclusion that the record was procedurally shaped rather than impartially reviewed.

Plaintiff respectfully moves to alter or amend the judgment under Rule 59(e) on the grounds that the Court ruled on an incomplete and selectively docketed record. On April 22, 2025, Plaintiff submitted a supplemental clarification and judicial notice request in support of his opposition to Defendant Spiro's motion to dismiss (Docket 272). That filing, EDSS-confirmed and never rejected for deficiency, provided material clarification regarding the applicability of statutory eligibility requirements under Business and Professions Code § 6060(e), directly rebutted factual assertions in Spiro's reply (Docket 273), and identified inconsistencies in the judicially noticed Student Handbook submitted as Docket 274. Though timely, accurate, and supported by judicially noticeable public records, the April 22 filing was never docketed, despite the subsequent submission and docketing of a correction notice (Docket 279) and Plaintiff's procedural objection (Docket 281).

The suppressed filing contained dispositive factual material, including Exhibit A, a February 25, 2025 letter from the State Bar of California acknowledging Plaintiff's compliance with exam eligibility criteria and confirming his participation in the February 2025 California Bar Exam. This document directly contradicts the categorical ineligibility argument presented by Defendant Spiro and undermines the authenticity and applicability of Docket 274, which was relied on by both Spiro and

the PCL Defendants. In light of this evidence, the Court was obligated under Rule 12(d) either to deny dismissal or convert the motion to one for summary judgment. By issuing a dispositive ruling while omitting this record, the Court allowed material factual disputes and evidentiary contradictions to escape judicial scrutiny — warranting immediate reconsideration and amendment of the judgment.

MEMORANDUM OF POINTS AND AUTHORITIES

I. PROCEDURAL HISTORY

Plaintiff filed the Third Amended Complaint ("TAC") on August 21, 2024 (ECF 148), which alleged, among other claims, violations of the Equal Protection Clause and civil RICO. On February 12, 2025, the Magistrate Judge issued an Interim Report and Recommendation (Docket 213), finding that while the TAC reflected a marked improvement from prior iterations, it ultimately failed to state a viable federal cause of action. The Report recommended dismissal of all claims against the State Bar defendants with prejudice and dismissal of all remaining federal claims, except the RICO claim against PCL Defendants, with prejudice as well. The Magistrate Judge recommended granting leave to amend solely with respect the PCL Defendants.

Notably, the Court acknowledged that Plaintiff had submitted a proposed amended version of the TAC on September 6, 2024 (ECF 164), and that the complaint conformed to Rule 8 standards, but found that it failed to cure the deficiencies identified in the operative TAC. As such, the Court recommended denying Plaintiff's request for leave to amend. As adopted by the District Court, this ruling resulted in the dismissal of all State Bar defendants from the action with prejudice and a narrow window to amend the RICO, Unruh and negligence claims against PCL Defendants only.

II. LEGAL STANDARDS FOR JUDICIAL NOTICE AND RULE 59(E) RELIEF

A district court may grant a motion to alter or amend a judgment under Rule 59(e) if:

a. There is newly discovered evidence,

b. The court committed clear error or the initial decision was manifestly unjust, or

c. There is an intervening change in controlling law.

A Rule 59(e) motion may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment. (*Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008)).

In the Ninth Circuit, Rule 59(e) relief is deemed appropriate where a court fails to consider material evidence submitted prior to judgment or issues a ruling based on a materially incomplete record. See *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011); *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). Clear error or manifest injustice exists where "the Court is presented with evidence of a dispositive nature that was not considered and that directly undermines the basis for judgment." Id.

Additionally, where judicial notice plays a central role in resolving a dispositive motion, courts are obligated to ensure that the facts noticed are not subject to reasonable dispute and are derived from sources whose accuracy cannot reasonably be questioned. See *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018); *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001). If the facts are contested or if the document's meaning is reasonably disputable, judicial notice is inappropriate, and reliance on such materials at the pleading stage may require conversion to summary judgment under Rule 12(d).

Judicial notice under Rule 201(b) is appropriate only for facts "generally known within the trial court's territorial jurisdiction" or facts "that can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." (Fed. R. Evid. 201(b); see also *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001)). Courts cannot take judicial notice of disputed facts simply because a party labels them as "official" or "undisputed."

Pursuant to Federal Rule of Evidence 201, judicial notice is appropriate when the fact is not subject to reasonable dispute because it:

1. Is generally known within the trial court's territorial jurisdiction; or
2. Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

The Court may take judicial notice of its own prior orders, as well as the structure and labeling of pleadings on the docket. *See Intri-Plex Techs., Inc. v. Crest Grp., Inc.*, 499 F.3d 1048, 1052 (9th Cir. 2007) ("A court may take judicial notice of its own records in other cases.").

Courts must distinguish between the existence of a document and the factual conclusions a party draws from it. Judicial notice does not authorize the Court to adopt a party's disputed interpretations.

Where, as here, the Court failed to docket or consider a timely, EDSS-confirmed evidentiary filing containing both a clarification of a judicial notice request and a State Bar-authored exhibit directly relevant to the dismissed claims, Rule 59(e) provides the appropriate mechanism to correct the record and ensure that final judgment is not entered on incomplete or procedurally deficient grounds.

III. THE THIRD AMENDED COMPLAINT IS LEGALLY SUFFICIENT AND CURED PRIOR DEFICIENCIES

Each claim is grounded in well-pled factual allegations, supported by documentary exhibits, internal correspondence, and judicially noticeable government records. The TAC traces the conduct of each named defendant to specific acts or omissions, incorporates chronological detail, and clearly pleads injury, causation, and knowledge where required. Where applicable, Plaintiff pled fraud-related claims with particularity under Federal Rule of Civil Procedure 9(b), identifying the "who, what, when, where, and how" of materially false statements and omissions.

The TAC also integrates State Bar correspondence, internal PCL communications, and meeting documentation to substantiate claims related to governance failure, retaliation, discrimination, and improper institutional practices. These materials not only rebut conclusory defenses but also affirm the plausibility of the factual allegations under the standards set by *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

A. THE THIRD AMENDED COMPLAINT STATED PLAUSIBLE CLAIMS AND PRECLUDED IMMUNITY AT THE PLEADING STAGE

The Third Amended Complaint (TAC), filed on August 21, 2024, reflects Plaintiff's good-faith effort to comply with prior court guidance and presents a materially improved pleading, supported by detailed factual allegations and documentary exhibits. The TAC separates causes of action clearly, identifies the specific conduct of each named defendant, and incorporates timeline-based allegations substantiating knowledge, causation, and injury. Additionally, where fraud is alleged, Plaintiff pleads with particularity under Rule 9(b), identifying the "who, what, when, where, and how" of the misconduct.

The TAC included eight causes of action, including:

1. Equal Protection (42 U.S.C. § 1983) – Directed at individual State Bar defendants for implementing and maintaining racially disparate educational policies, pled with reference to State Bar Guidelines, enforcement lapses, and documented disparate impacts on African American students.
2. Violation of California's Unruh Civil Rights Act – Alleging discriminatory and unequal treatment by named PCL and State Bar Defendants, supported by internal communications and denial of academic resources.
3. Title VI Discrimination – Detailing federal funding oversight failures by regulatory actors and race-based differential impacts on legal education outcomes.
4. Civil RICO and Conspiracy (18 U.S.C. §§ 1962(c) and (d)) – Alleging a coordinated enterprise between PCL and regulatory actors to misrepresent educational standing, defraud students, and perpetuate structural inaccessibility, supported by emails, admissions, and a timeline of regulatory inaction.
5. Negligence and Negligent Hiring/Retention – Alleging that both the PCL Board and the State Bar breached their statutory and regulatory duties, grounded in educational law and professional responsibility standards.
6. Retaliation and Sex-Based Harassment (Title IX) – Based on documented retaliation against protected activity and institutional responses to Plaintiff's grievances.

The Court briefly and non-substantively indication of consideration, but did not rule, on Plaintiff's September 6, 2024 proposed amended version of the TAC, which was submitted to further streamline the record and respond to objections raised in pending motions. The dismissal of the TAC largely relies on findings that the complaint failed to allege discriminatory intent or RICO

collaboration with sufficient particularity. However, these findings facially overlook the TAC's robust evidentiary record, including:

a. Internal emails and procedural documentation from the State Bar confirming knowledge of PCL's noncompliance,

b. Public records establishing PCL's academic misconduct and misrepresentation,

c. State Bar Guidelines and correspondence showing sustained inaction despite internal awareness,

d. Evidence of transcript manipulation, discriminatory treatment, and exclusion from academic progression, and

e. The State Bar's May 2024 revocation of PCL's degree-granting authority, aligning with Plaintiff's factual allegations.

f. The undocketed April 22, 2025 submission of a letter of apology related to issues with Plaintiff's taking of the February 2025 bar examination, confirming his eligibility to sit for the exam.

The TAC's factual specificity, legal sufficiency, and structured presentation satisfy Rule 8, Rule 9(b), and the pleading standards set forth in *Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)* and *Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)*. The Court's dismissal, by contrast, does not identify internal contradictions, lacks citation to contradictory material in the TAC itself, and omits reference to the clarified factual record submitted in connection with pending dispositive motions.

Courts have consistently held that disputed factual issues cannot be resolved through judicial notice or on a Rule 12(b)(6) motion. (See *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018) ["[A] court may not take judicial notice of a fact that is 'subject to reasonable

dispute.'"]). In particular, when an affirmative defense like sovereign or statutory immunity requires the weighing of disputed factual contentions, it is inappropriate for adjudication prior to discovery.

Moreover, as the Ninth Circuit emphasized in *Institute of Cetacean Research v. Sea Shepherd Conservation Society*, 774 F.3d 935, 957 (9th Cir. 2014), immunity does not shield volunteers or government agents who engage in intentional misconduct or reckless disregard for the rights of others. The allegations in the Third Amended Complaint plausibly establish that Defendant's conduct falls squarely within these excluded categories.

Accordingly, Plaintiff's allegations raise serious factual disputes related to willful misconduct, gross negligence, and reckless disregard that were required to be tested through discovery, not resolved through judicial notice or early dismissal. Defendant Spiro's attempted invocation of the VPA at this stage is premature and procedurally improper, and any determination of immunity must await factual development consistent with Rule 56 standards.

Notably, Defendant's were not entitled to immunity on the face of the pleadings.

Even assuming arguendo that the Court identifies technical deficiencies in the Third Amended Complaint, those deficiencies do not justify dismissal with prejudice. In the Ninth Circuit, issues related to Rule 8 or Rule 9(b) are generally addressed through amendment, particularly where a pro se litigant has shown diligence and an ability to cure prior deficiencies. Dismissal with prejudice is a drastic remedy, appropriate only where amendment would be futile. That standard is not met here. Plaintiff stands ready to submit a proposed Fifth Amended Complaint that incorporates the Court's guidance, cures any remaining technical issues, and advances the case toward adjudication on the merits rather than premature termination on procedural grounds.

B. THE RECORD WAS PROCEDURALLY INCOMPLETE AT THE TIME OF RULING

Ruling on an incomplete record is generally considered premature.

Premature factual determinations are inappropriate at the pleading stage. (See *Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018)

Here, Plaintiff timely submitted the following filings via EDSS, each of which addressed pending dispositive motions and directly supported the plausibility of Plaintiff's claims:

1. Notice of Clarification and Supplemental Request for Judicial Notice in Support of Docket 272

Submitted April 22, 2025 | Tracking No. EDS-250422-001-9512

2. Notice of Errata (correcting the above)

Submitted April 25, 2025 | Docketed as Docket 279

3. Notice of Material Procedural Irregularity re Docket 277

Submitted April 26, 2025 | Tracking No. EDS-250426-001-9618

4. Opposition to Defendant Spiro's Request for Judicial Notice (re Docket 278)

Submitted April 28, 2025 | Tracking No. EDS-250428-001-9649

Notably, only the Errata (Docket 279) has been docketed in relationship to the Aprill 22, 2025 filing. The original submission it corrects remains suppressed. The ruling at Docket 277 does not reference or acknowledge any of these filings, and thus the judgment appears to have been entered without consideration of timely material submissions.

On the morning of April 30, 2025, the Court issued an update confirming the processing of Plaintiff's April 28, 2025 filing (Tracking No. EDS-250428-001-9649), following similar delayed acknowledgments of Plaintiff's April 25 and April 26 submissions. While this pattern may appear to

reflect an effort to normalize the docket post-judgment, one filing remains conspicuously absent: Plaintiff's April 22, 2025 judicial notice clarification, which was timely submitted, EDSS-confirmed, and directly referenced in the docketed Notice of Errata (Docket 279). The selective docketing of that correction without the corrected material continues to deprive the record of a timely evidentiary submission tied to a dispositive motion. That omission, still unresolved as of this motion, materially impacts the integrity of the judgment.

Similarly, the Court docketed a Plaintiff submitted, and timely, objection to procedural irregularity on April 26, 2025. The Court chose to assign that filing a post hoc docket number (Docket 281) four days later, also on April 30, 2025, although the record shows that the Court was on notice of the issue and ruled anyway — without addressing or acknowledging the objection.

To the extent the Court's ruling fails to reference or account for Plaintiff's April 22, 2025 Judicial Notice Clarification, timely submitted, EDSS-confirmed, and substantively corrected by a docketed Errata (Docket 279), the resulting judgment rests on an incomplete and selectively curated record. No Notice of Deficiency was issued to justify the omission, and the Court had constructive and actual notice of the filing prior to issuing its ruling. A dispositive ruling that omits such material content, while incorporating less complete or contested submissions, raises serious questions of procedural integrity and mandates reconsideration under Rule 59(e) or, alternatively, vacatur on appeal for violation of fair process and the pro se pleading standard.

Accordingly, Defendant has not satisfied the procedural requirements necessary to assert VPA immunity at the pleading stage. Judicial notice should be denied, and even if the Court were inclined to consider Defendant's submissions, the existence of material factual disputes precludes dismissal prior to discovery.

IV. JUDICIAL ERROR AND MANIFEST INJUSTICE WARRANT RECONSIDERATION

A Rule 59(e) motion is warranted where the Court has committed a clear error of law or fact, or where the record upon which judgment was entered is materially incomplete in a manner that affects the outcome. *See Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011); *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). The standard is satisfied where the Court fails to consider timely, properly submitted evidence or rules on a procedurally deficient record. *Id.*

Here, the judgment warrants reconsideration for multiple, independently sufficient reasons:

A. THE COURT ISSUED ITS RULING ON AN INCOMPLETE AND SELECTIVELY DOCKETED RECORD

First, the Court issued its ruling on an incomplete and selectively docketed record. Plaintiff's April 22, 2025 Judicial Notice Clarification was timely submitted through the Court's Electronic Document Submission System (EDSS) and confirmed as received. The submission included dispositive clarifications and supporting material directly relevant to pending dispositive motions. At no point did the Court issue a Notice of Deficiency, rejection, or request for correction. Plaintiff's subsequent April 25 Errata (docketed as Docket 279) expressly referenced and corrected the April 22 submission, placing the Court and opposing counsel on actual notice of the omitted filing. Yet the April 22 filing was never docketed. This selective omission, in the absence of procedural justification or notification to Plaintiff, constitutes a knowing exclusion of material evidence from the record. The omission is particularly significant because the suppressed filing included an exhibit authored by the

State Bar of California confirming Plaintiff's eligibility for the February 2025 bar exam—a factual contradiction relevant to claims previously dismissed for lack of standing or plausibility.

B. PLAINTIFF SUBMITTED A TIMELY NOTICE OF MATERIAL PROCEDURAL IRREGULARITY

Second, Plaintiff submitted a Notice of Material Procedural Irregularity on April 26, 2025 (Tracking No. EDS-250426-001-9618), explicitly objecting to the exclusion of the April 22 filing and documenting the procedural irregularity. Although this filing was not docketed until April 30, 2025 (Docket 281), the Court was on constructive notice of the irregularity before ruling. The Errata had already confirmed the earlier submission, and the April 26 notice—submitted prior to any ruling—solidified the procedural objection. The delayed docketing of Docket 281 does not cure the prejudice created by the omission, nor does it alter the legal conclusion that the Court entered judgment on an incomplete and procedurally compromised record.

C. THE COURT'S DISMISSAL MISCHARACTERIZES PLAINTIFF'S THIRD AMENDED COMPLAINT

Third, the Court's dismissal mischaracterizes Plaintiff's Third Amended Complaint (TAC) as deficient, despite its clear compliance with Rule 8, Rule 9(b), and the plausibility standards articulated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). The TAC is well-organized, factually specific, and supported by internal documentation, procedural correspondence, and judicially noticeable records. Where fraud is alleged, Plaintiff identifies the "who, what, when, where, and how," as required under Rule 9(b). The Court's dismissal does not meaningfully address the substance of those allegations, nor does it reconcile them with the evidentiary record already submitted.

Moreover, the Court's ruling fails to apply the established standard for reviewing pleadings submitted by pro se litigants. Under *Erickson v. Pardus*, 551 U.S. 89, 94 (2007), and *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010), courts must construe pro se complaints liberally and afford them the benefit of the doubt. Plaintiff's TAC not only meets, but exceeds that standard. The record contains no indication that the Court invited clarification, offered guidance for amendment, or provided any notice that material corrections had been overlooked. The absence of judicial engagement with either the factual record or the procedural objections reflects a ruling premised on containment rather than adjudication.

D. THE COURT'S RULING FAILED TO APPLY CONTROLLING SUPREME COURT AND NINTH CIRCUIT PRECEDENT

This is not an attempt to relitigate arguments previously raised and resolved. Rather, here it is argued that the Court did not engage with these controlling precedents sufficiently, if at all, despite their direct applicability to the claims pled, the relief requested, and the factual context of systemic exclusion and regulatory indifference. Where the record demonstrates a facial legal error, or the failure to apply governing precedent, Rule 59(e) provides the appropriate mechanism to seek correction before appellate review.

Here, the judgment should also be altered or amended pursuant to Rule 59(e) because the Court failed to engage with controlling legal authority—namely, the Supreme Court's decision in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023) ("*SFFA*"), and the longstanding rule in *Ex parte Young*, 209 U.S. 123 (1908), both governing claims explicitly pled in Plaintiff's Third Amended Complaint and materially affect the outcome.

1. *SFFA* Requires Judicial Scrutiny of Race-Exclusion Allegations

The Equal Protection claim in the TAC alleges intentional exclusion, disparate regulatory enforcement, and race-based structural inequities in access to legal education—specifically, the State Bar's failure to enforce compliance, document disclosure, or parity in degree-granting standards for historically marginalized students. These allegations fall squarely within the scope of *SFFA*, which reaffirms that "[e]liminating racial discrimination means eliminating all of it" and that facially neutral systems resulting in racial exclusion must be subjected to the most exacting scrutiny. (See *SFFA*, 600 U.S. at 220–21.)

Despite these allegations, the Court dismissed the Equal Protection claim without analyzing *SFFA* or applying its framework to the regulatory conduct at issue. The omission is material. *SFFA* confirms that racial exclusion in education, regardless of intent language or institutional purpose, cannot be insulated from judicial review when exclusionary outcomes are alleged and substantiated. Plaintiff specifically pled the disparate impact of the State Bar's conduct on Black students, tied it to documented and ongoing governance failure, and identified the lack of meaningful enforcement as a contributing factor. The Court's silence on *SFFA* constitutes clear legal error warranting reconsideration.

2. *Ex parte Young* Authorizes Prospective Relief Against State Officials

Plaintiff also brought claims against individual State Bar officials in their official capacities, seeking injunctive relief to prevent ongoing constitutional violations, including retaliation and exclusion from equal educational access. These claims fall under the well-established doctrine of *Ex parte Young*, which permits federal courts to enjoin state officials who are violating federal law, notwithstanding the Eleventh Amendment. (*See Ex parte Young*, 209 U.S.)

The Court's ruling appears to have extended Eleventh Amendment immunity to all State Bar actors without distinction and without addressing whether the claims for prospective relief against individual officers were actionable under *Young*. This failure to apply or distinguish *Ex parte Young* is a clear deviation from controlling precedent. It also deprives Plaintiff of a recognized pathway to enforce constitutional protections against state actors, particularly in the educational and regulatory context where enforcement discretion affects access to licensure.

Caselaw is replete with support of this supposition. For example, in *Coalition to Defend Affirmative Action v. Brown*, 674 F.3d 1128, 1134–35 (9th Cir. 2012), the Ninth Circuit applied *Ex parte Young* to uphold claims for injunctive relief against state officials enforcing allegedly unconstitutional laws. ("The Eleventh Amendment does not bar claims for prospective declaratory or injunctive relief against state officers sued in their official capacities."). On point with many of the issues here is also *Doe v. Regents of the University of California*, 891 F.3d 1147, 1153 (9th Cir. 2018), a case involving due process and Equal Protection claims against public university officials that further illustrates when claims against state actors may proceed despite Eleventh Amendment defenses.

3. These Legal Omissions Were Material and Prejudicial

This is not a mere disagreement with the Court's interpretation of contested law, nor an effort to reassert claims already addressed on the merits. Rather, it is the identification of a dispositive legal omission. The Court's ruling does not cite, apply, or distinguish either *Students for Fair Admissions* or *Ex parte Young*—despite both being directly implicated by Plaintiff's well-pled claims for prospective injunctive relief and race-based exclusion in the administration of public educational licensing systems.

The failure to engage with *SFFA* deprived the Equal Protection claim of the controlling standard applicable to facially neutral regulatory policies that result in disparate racial outcomes. The dismissal of that claim, without reference to the standard announced in *SFFA*, materially affects the outcome by applying the wrong legal threshold and bypassing factual allegations that would otherwise warrant discovery or strict scrutiny.

Similarly, the Court's failure to apply *Ex parte Young* led to the erroneous conclusion that individual State Bar officials were immune from suit for ongoing constitutional violations. Had the Court applied *Young*, it would have recognized that claims for prospective relief against those officials in their official capacities are not barred by the Eleventh Amendment, and should have proceeded to evaluation on the merits.

These omissions go to the core of the Court's jurisdiction and the applicable legal standards. When a court disposes of federal constitutional claims without applying or acknowledging the governing authority, the resulting judgment is not merely incomplete, it is defective.

The Court's failure to apply the appropriate standard to this pleading constitutes clear legal error and materially contributed to an unjust disposition of the case on an incomplete and selectively docketed record.

Under *Herron* and *ACandS*, such errors of law constitute grounds for relief under Rule 59(e) and warrant amendment or vacatur to preserve the integrity of the process and ensure that judgment rests on the correct legal foundation.

V. CONCLUSION

The Court's failure to offer procedural accommodation, invite clarification, or permit limited amendment, despite a well-pled Third Amended Complaint and multiple timely evidentiary filings,

does not reflect the weakness of Plaintiff's claims but rather the institutional tension they present. At no point did the Court acknowledge the existence of unresolved factual disputes, consider whether a more limited amendment might clarify the record, or suggest narrowing the issues for focused adjudication relevant to the then-operative Third Amended Complaint and the parties dismissed with prejudice.

The absence of any such engagement, even in the face of an EDSS-confirmed filing that remains suppressed and a procedurally documented objection submitted before judgment, raises serious concerns about whether the dismissal was guided by the appropriate legal standards. When dismissal rests on a curated and incomplete record, without adherence to the liberal pleading standard afforded to pro se litigants under *Erickson v. Pardus* and *Hebbe v. Pliler*, the result is not finality through adjudication, but error through omission.

Rule 59(e) provides the proper mechanism to correct that outcome and preserve the legitimacy of the judicial process.

VI. REQUEST FOR RELIEF

Reconsideration is necessary not only to correct procedural error, but to ensure that the adjudicative process remains consistent with constitutional principles of fairness, transparency, and equal access to relief.

For the foregoing reasons, Plaintiff respectfully requests that the Court:

A. Vacate the judgment entered on April 25, 2025 as Docket 277;

B. Reconsider the sufficiency of the TAC in light of the full procedural record, and

C. Issue an order acknowledging and docketing Plaintiff's April 22, 2025 submission, or, alternatively,

D. Grant leave to file a Fifth Amended Complaint should the Court find limited technical deficiencies.

Plaintiff respectfully preserves all objections to the judicial notice of contested facts, the resolution of affirmative defenses prior to factual development, and the entry of judgment based on an incomplete or selectively docketed record. Plaintiff also reserves all rights to seek appellate review of any ruling that deviates from the requirements of the Federal Rules of Civil Procedure, the Federal Rules of Evidence, including Rule 201, and controlling Ninth Circuit precedent governing pro se pleadings and the standards applicable to motions to dismiss. Under these circumstances, final judgment would rest not on a full and fair consideration of the record, but on a procedural posture that omitted material submissions central to the claims at issue.

Dated: May 1, 2025

Respectfully submitted,

Todd R. G. Hill
Plaintiff, Pro Se

STATEMENT OF COMPLIANCE WITH LOCAL RULE 11-6.1

The undersigned party certifies that this brief contains 4,877 words, which complies with the 7,000-word limit of L.R. 11-6.1.

Respectfully submitted,

May 1, 2025
Todd R.G. Hill
Plaintiff, in Propria Persona

Plaintiff's Proof of Service

This section confirms that all necessary documents will be properly served pursuant to L.R. 5-3.2.1 Service. This document will be/has been electronically filed. The electronic filing of a document causes a "Notice of Electronic Filing" ("NEF") to be automatically generated by the CM/ECF System and sent by e-mail to: (1) all attorneys who have appeared in the case in this Court and (2) all pro se parties who have been granted leave to file documents electronically in the case pursuant to L.R. 5-4.1.1 or who have appeared in the case and are registered to receive service through the CM/ECF System pursuant to L.R. 5-3.2.2. Unless service is governed by Fed. R. Civ. P. 4 or L.R. 79-5.3, service with this electronic NEF will constitute service pursuant to the Federal Rules of Civil Procedure, and the NEF itself will constitute proof of service for individuals so served.

Respectfully submitted,

May 1, 2025

Todd R.G. Hill

Plaintiff, in Propria Persona